

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

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Replacement of Part 90 by Part 88 )  
to Revise the Private Land Mobile )  
Radio Services and Modify the )  
Policies Governing Them )

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PR Docket 92-235

COMMENTS OF THE  
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## SUMMARY

The American Automobile Association, Inc. (AAA) supports the Commission's overall goal of achieving greater spectrum efficiency, but has serious concerns over certain aspects of the Commission's proposal. First and foremost, it is vital that the Commission maintain an adequate reserve of channels available only for the important public safety operations of AAA's auto clubs.

The AAA urges that frequencies be assigned for exclusive auto club use, or else that the Automobile Emergency Radio Service be reclassified as part of the Public Safety Pool.

exclusive use, but free up others unnecessarily held in reserve.

The AAA urges implementation of more flexible channel exclusivity criteria. Sole reliance on a simplistic mobile loading count may be administratively convenient, but it is unnecessarily rigid, and does not match the realities of many PLMR operations. The AAA urges recognition that the database mobile loading count is but one measure of spectrum efficiency, and other more individualized showings also would qualify for exclusive use. Such an approach would further Commission objectives of providing incentives for efficient

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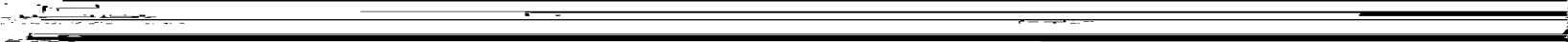
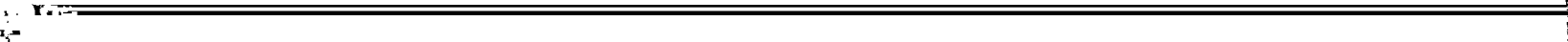



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COMMENTS OF THE AMERICAN AUTOMOBILE ASSOCIATION, INC.

The American Automobile Association, Inc. (AAA), hereby  
submits its comments in response to the Notice of Proposed

coordinator for all frequencies allocated to the Automobile  
Emergency Radio Service.

The AAA maintains more than 215 dispatching centers in  
the United States, with more than 430 radio base stations.  
The dispatching centers receive calls from members, and from  
various public safety entities, such as police departments or  
911 operations. Calls not involving imminent threat to the  
safety of life or property are entered into a computer and



extremely high priority on maintaining communications capability".

**II. THE AAA ACTIVELY PROMOTES SAFETY OF LIFE AND PROPERTY, REQUIRING CONTINUED USE OF RESERVED CHANNELS.**

**A. The Act establishes promotion of safety as a fundamental spectrum management goal.**

Section 1 of the Act sets out the rationale for authorization of FCC management of the spectrum. 47 U.S.C. § 151 (1988). Prominent among them is provision of "rapid, efficient" radio services "at reasonable charges . . . for the purpose of promoting safety of life and property . . ."

Id. The AAA is dedicated to "promoting safety of life and property," through its emergency road services nationwide. Since the AAA fulfills a fundamental spectrum use goal articulated by the Act, it should receive priority treatment under authority delegated by the Act.

Likewise, when directly addressing the Private Land Mobile Services, Congress set out specific policy criteria for Commission management of PLMRS spectrum. Communications Amendments Act of 1982, P.L. 97-259, 96 Stat. 1087 (September 13, 1982). 47 U.S.C. § 332(a). Under this statutory mandate, "the Commission shall consider, consistent with Section 1 of this Act, whether such actions will - (1) promote the safety of life and property; . . ."

Id. Thus, Section 332 of the Act reinforces Section 1 by ranking promotion of safety at the top of the list. The Conference Report for this legislation indicates Congressional intent that the Commission not only



consider the policy goals promulgated by this section of the Act, but also take actions in fulfillment of these goals. 1982 U.S. Code Cong. and Ad. News 2237, 2296 (Conference Report at page 52). The priority ranking of safety activities is reinforced by other indications of Congressional intent: "Radio services which are necessary for the safety of life and property deserve more consideration in allocating spectrum than those services which are more in the nature of convenience or luxury." Id. at 2250 (Senate Report at page 14).

The Commission does not fully discharge its statutory mandate to put safety first in allocating PLMRS spectrum by placing only public agencies in the preferred Public Safety Radio Service. Sections 1 and 332 of the Act do not distinguish between government and non-government licensees, but instead focus on promoting safety when setting spectrum management priorities. It is conduct (promoting safety of life and property), not status (government vs. non-government) that fulfills statutory objectives. While Congress intended that the Commission "be ever vigilant to promote the private land mobile spectrum needs of police and fire departments and other public agencies . . . ." 1982 U.S. Code Cong. and Ad. News 2237, 2296 (Conference Report at page 52), this intent does not (and could not) establish in public agencies a monopoly on promotion of safety of life and property. Congress appropriately recognized that police departments and

other public agencies promote safety and deserve priority treatment. However, private entities, including the AAA, also promote safety of life and property, thereby fulfilling a policy goal established by the Act.

- B. The Commission should continue AAA's reserved frequency assignments, since its auto clubs actively promote safety.**

The AAA auto clubs promote the safety of life and property, both directly and indirectly. Many AAA auto clubs maintain dedicated telephone lines directly linked to the dispatch offices of local and state highway police departments, or 911 service. Under agreements with public safety agencies, the auto clubs will immediately dispatch tow trucks responding to calls from police or 911. For example, in the San Francisco Bay Area alone, the California State Automobile Association handles more than 4,000 requests a year from the California Highway Patrol. The AAA auto clubs perform a vital public safety service by quickly clearing disabled vehicles from accident scenes, high speed freeways, dangerous intersections, or other sites posing an immediate danger to the motoring public. Absent quick and efficient radio dispatched removal of these vehicles, the public would be needlessly endangered.

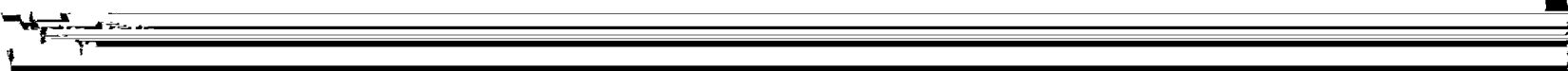
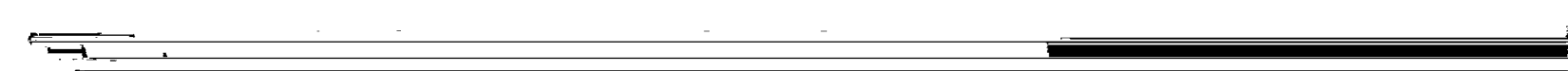



Moreover, during a time of limitations on budgets for government provision of public safety services, AAA auto clubs in many cities provide courtesy safety patrols free of charge. Service vehicles from the various auto clubs continuously

cruise notoriously snarled freeways and other roads, spotting and assisting disabled motorists free of charge to either the motorist or the City. The California State Automobile Association notes statistics showing that stalled vehicles and traffic accidents cause 50% of the congestion on our highways. Many AAA auto clubs also maintain and pay for special telephone circuits or lines for exclusive police use. Where AAA auto clubs perform these services free of charge, municipal funds previously allocated to police highway patrol operations can be reallocated for other public safety operations. Police departments are able to maintain a reduced fleet of tow trucks and other motorist assistance vehicles. Police officers on patrol have to spend less time assisting stranded motorists. Thus, in addition to directly promoting safety by promptly removing disabled vehicles posing immediate danger to the traveling public, and rescuing stranded motorists. the AAA auto clubs indirectly promote safety by

or in high crime areas, or in remote areas during dangerously hot or cold weather. Emergency calls receive priority treatment by auto club dispatch centers. Any delay in dispatching these emergency calls, caused by co-channel interference or frequency over-crowding, could prove fatal.

Like public safety agencies responding to a wide variety of types of calls, ranging from emergency to simple information requests, AAA auto clubs similarly solve a diversity of private motorist problems, many of which endanger the safety of life or property and require immediate attention.

Auto club dispatch centers serve as another set of eyes and ears for police departments, by relaying reports of conditions received from roaming tow trucks. During both emergency and non-emergency times, auto club tow trucks routinely report sightings of roadway hazards, accidents, or



service in the clearing of accidents, as well as the reporting of road blockages and other hazardous situations, due to its extensive radio communications system. During Hurricane

can they be dispatched to troubled areas, they can also report dangerous situations observed while enroute.

Thus, the AAA auto clubs actively promote the safety of life and property in a variety of contexts. Auto club radio systems maintained to fulfill this fundamental spectrum management goal should receive vigilant protection in the

are not directed toward "turf protection," but rather are requesting that the unique characteristics of auto club radio operations be recognized through more flexible regulatory design.

**III. THE COMMISSION SHOULD IMPLEMENT ASSIGNED FREQUENCIES EXCLUSIVELY FOR AUTO CLUB USE OR ELSE SHOULD IMPLEMENT PROPOSED OPTION TWO: RETAIN EXISTING SERVICES**

The Commission has proposed,

either to (1) consolidate the current radio services into three broad categories . . . plus a General Category Pool . . . or (2) retain the current services, and assign to those services their existing frequency assignments but assign all new frequencies to the proposed new broad categories and the General Category Pool.

Notice of Proposed Rule Making, 7 FCC Rcd 8105, 8111 (1992).

The Commission emphasized that it did not have any preference for either alternative. Id. The AAA urges that, at a minimum, the Commission adopt the second proposal (hereinafter, Option Two) in order to ensure that at least some channels remain dedicated to the vital function of emergency road services. More preferably, the Commission should assign the current Automobile Emergency Radio Service spectrum (including frequencies newly created from "channel splitting") exclusively for auto club use, outside of any pool arrangement. The AAA does not request that so many frequencies be assigned as to cause spectrum to lie fallow, in anticipation of potential future auto club needs. Rather, wherever practicable, existing AAA auto club radio systems should not be required to share channels with other,

potentially incompatible users. Due to the nature of auto club operations, exclusive use of frequencies is necessary to promotion of safety of life and property especially in peak periods of motorist need.

Several factors require AAA auto club retention of exclusive frequency use. First, forced sharing could endanger life and property; second, AAA auto clubs make very undesirable co-channel licensees, particularly in bad weather periods; and third, the possibility of confusion exists when sharing a frequency with other dispatch operations. Auto clubs have been able to largely avoid problems in operating on these frequencies to date because AAA, as the frequency coordinator, has assigned a clear or lightly used channel whenever possible; and these channels have not been shared with incompatible users. However, the Commission's proposal that would require coordinators to vertically stack licensees until a channel is at full capacity will confound smooth operation in the future.

As noted above, most auto clubs maintain agreements requiring immediate dispatch upon receipt of calls from state and local police, fire or 911 service. The only way to assure immediate dispatch is by exclusive use of frequencies. If the auto clubs were forced to share frequencies, particularly under proposed vertical stacking rules, emergency dispatches from police calls would have to wait for the next break in transmissions among shared users, so as to prevent unlawful

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interference. Likewise, dispatches for emergency calls received from private motorist members would be held up until the next available break in transmissions. Thus, forced sharing of channels would unnecessarily endanger the motoring public. Forced sharing also would degrade the quality of service provided to police departments, potentially prompting increased public expenditures for municipal tow truck operations, at a time of pronounced limits on public safety governmental resources.

Moreover, during times of natural disaster, or emergency, or even when a cold spell strikes, the AAA auto club dispatch centers would fully occupy any shared channels. Under proposed Part 88 rules, coordination and licensing decisions apparently would continue to be made based upon simplistic mobile loading counts, which fail to account for the dramatic upswings in call volume (and corresponding dramatic upswing

an hour or more to get clear air time for transmission during one of these regularly occurring spikes in AAA club dispatch volume. The California State Automobile Association reports an average use of 45-50 minutes of each hour just in commuter "rush" hours or bad weather.

Additionally, costly confusion could result where other dispatch operations are co-licensed on AAA auto club frequencies, since both licensees would be dispatching in the same geographic area, and to similar addresses.

Thus, forced sharing of auto club frequencies would unnecessarily endanger motorists and their vehicles, would treat unfairly co-channel licensees, and may cause confusion among dispatch operations. In order to prevent these problems under the present AAA auto club exclusive use pattern, the Commission should continue the current assignment of channels dedicated to auto club use, including the channels which will be created from the splitting of currently assigned auto club frequencies. In the absence of exclusive auto club channels, the Emergency Automobile Radio Service should be included in the Public Safety Pool rather than the Non-Commercial Pool. The overriding importance of the public safety function fulfilled by the auto clubs justifies inclusion in the Public Safety Pool. This redesignation would also facilitate joint operations between state and local safety authorities and auto clubs. If this option is chosen, the auto clubs would propose to bring their currently allocated channels with them, so that

it would not be necessary for the clubs to request any spectrum already allocated to (and heavily used by) public safety governmental users.<sup>2</sup> In the alternative, the Commission should adopt Option Two.

The first option identified above (continued exclusive auto club use of allocated and newly created channels) is the most desirable one. Inclusion in the public safety pool would more adequately protect the function of the auto clubs, in the absence of continued exclusive auto club use. If the Commission were not to adopt either of these proposals, it should adopt Option Two proposed in the NPRM (continued allocation of presently used frequencies exclusively to auto clubs). While this will not completely protect the ability of auto clubs to carry out the important safety related functions they serve, it is certainly preferable to the alternative of being included in the Non-Commercial Pool with no protected channels.

In addition to assigning certain presently used spectrum to exclusive AAA auto club use, the Commission should continue the present frequency coordination practice by authorizing only AAA to coordinate those frequencies to be created out of the current Automobile Emergency Radio Service allocation. At present, there exists no "real time" database of ongoing

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<sup>2</sup> If AAA joined the Public Safety Pool, it should retain sole power and responsibility for frequency coordinating auto

coordination requests. The proposed Part 88 pooling arrangements, whereby nearly all coordinators would be allowed to coordinate in certain frequency bands, creates the potential for conflicts among coordinators, representing their member applicants, as two or more systems attempt to become licensed on the same seemingly available channel. This problem would be solved for auto club frequencies simply by continuing current practice of authorizing only one coordinator for these channels. Moreover, the Commission has received complaints that certain overly aggressive coordinating agencies, representing a broad range of users, have recommended frequencies requiring interservice coordination without receiving the necessary concurrences. Although the Commission's rules state that coordinators' recommendations are merely advisory, as a practical matter, the Commission looks to the coordinators' recommendations as its primary guidance in issuing licenses (and must do so in order for the delegation of responsibility to coordinators to serve any useful purpose). Again, the best solution is preventative: only one coordinator should be allowed to recommend licensing on all Automobile Emergency Radio Service frequencies.

#### **IV. THE COMMISSION SHOULD NOT ADOPT ONEROUS POWER AND ANTENNA HEIGHT RESTRICTIONS**

Proposed Rule Section 88.429 would impose severe restrictions on effective radiated power (ERP), according to antenna height. This proposal apparently is based upon the

twin erroneous beliefs that there is a widespread problem with "over-powered" systems, and that limiting ERP would facilitate reuse of the spectrum. NPRM, 7 FCC Rcd 8105, 8112 - 3 (1992). However, the proposal simply would raise the cost of providing emergency service, rather than bringing about anticipated efficiencies.

There is no evidence on the record of a widespread problem with "over-powered" systems, notwithstanding anecdotal accounts of an occasional power abuser. Most PLMRS licensees

would become available for reuse. However, the cost of providing emergency service to motorists would rise. Thus, the proposed limitations on ERP would not produce anticipated benefits, but would simply result in higher costs. And where alternative antenna sites do not exist because of terrain or zoning restrictions, service may actually be jeopardized. The Commission may then find itself flooded with height-power waiver requests, thereby further burdening its resources.

Moreover, this power reduction requirement would ignore the essential nature of emergency road services. Since it cannot be known where an accident or breakdown may occur, auto clubs must extend radio coverage to any area where vehicles can travel. Unlike many business and industrial users, who may be able to focus the coverage of their radio operations to known travel routes used by their vehicles or known areas of operation, auto clubs have a public safety responsibility to extend the reach of their radio equipped trucks to virtually all possible areas of vehicular traffic. Any reduction in this capability only means greater risk to the public, and a greater strain on police, fire and other state and local resources. As the LMCC Consensus Plan appropriately noted at paragraph 10, PLMR regulatory design should not be limited to a "cookie-cutter" approach.

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may force the licensee to place a transmitter at what is currently the edge of its coverage area. This would actually reduce the potential for frequency reuse.

The Commission recently recognized that "introducing these new [power restrictions] would be difficult." Private Radio Bureau Clarifies Key Refarming Issues, Public Notice (Mimeo No. 31964), released March 1, 1993 at page 4. Indeed, the Commission recognized that special provisions for wide area and rural needs may be appropriate, and solicited industry input on this issue. Id. It is respectfully submitted that wide area and rural power exceptions certainly would be appropriate for AAA operations, since they must extend wherever motorists travel, frequently over very long, remote stretches. For example, California State Automobile Association services a heavily traveled but desolate area extending to the California-Nevada border. Most other AAA clubs service similar areas. Thus, due to the nature of AAA operations, a wide area exception would be appropriate. A rural exception also would be appropriate since in many outlying areas there is not the volume of traffic necessary to make the addition of new transmitter sites economically feasible. However, emergency road service to these remote areas can in some cases mean the difference between life and death for a stranded motorist.

The NPRM correctly points out that Land Transportation licensees generally are limited to 75 watts output power. 7 FCC Rcd 8105, 8112 (1992). The implication is that if transportation companies can operate at 75 watts, then so can other companies. Id. However, this observation does not

serve as a basis for the severe limitations imposed by the height above average terrain (HAAT) charts found at proposed Rule Section 88.429, since the proposed rule regulates ERP, not simply output power. Existing 75 watt land transportation stations would have their service areas sharply reduced where the transmitter has a significant HAAT or uses a directionalized antenna. Moreover, land transportation companies are often able to choose their travel routes. \*\*\*



In nearly all rural areas, and in many urban areas, the proposed vertical stacking requirement would have the anomalous effect of increasing reception on used frequencies